

**Before the  
Federal Communications Commission  
Washington, DC 20554**

In the Matter of	)	
	)	
Jurisdictional Separations and Referral to	)	CC Docket No. 80-286
the Federal-State Joint Board	)	
	)	

**COMMENTS OF MID-COMMUNICATIONS, INC. dba HickoryTech**

The Commission has requested comment on a proposal to extend, until June 30, 2010, the current freeze of Part 36 category relationships and jurisdictional cost allocation factors.<sup>1</sup> Mid-Communications, Inc. files these brief comments to suggest that regardless of what action the Commission chooses to take regarding the extension of the freeze of Part 36 category relationships and jurisdictional cost allocation factors, it should not forego this opportunity to take much needed action on Part 36 and related Part 54 rules. In particular, Mid-Communications believes the Commission should correct the “one-way” ratchet rules for local switching support (“LSS”) under consideration in the Proposed Rules.

The NPRM proposes to amend section 36.125(j) to reflect a change in the date of the freeze from June 2009 to June 2010. Section 36.125(j), however, is the rule which has caused a great deal of consternation for several smaller carriers. While the rule addresses which DEM-weighting factor should be used to determine local switching support in the event that the lines in a study area *increase*, it does nothing to address a *decrease* in lines. Mid-Communications believes that a company’s support should be

---

<sup>1</sup> *Jurisdictional Separations and Referral to the Federal-State Joint Board*, CC Docket No. 80-286, Notice of Proposed Rulemaking, 74 Fed Reg. 15236 (2009) (*NPRM*).

calculated based on its current number of lines.<sup>2</sup> 47 CFR §54.301(a)(2)(ii) similarly fails to contemplate a decrease in lines.

The Commission currently has before it a petition filed by the Coalition for Equity in Switching Support which makes this same suggestion and which Mid-Communications also supports<sup>3</sup>. As stated by the Coalition in their Petition:

...the Equity Coalition implores the Commission to act promptly to clarify the ambiguous rule in a manner that will uphold the principles contained in Section 254 of the Act and expressed by the FCC, and eliminate the inequities in LSS between similarly situated companies. The Equity Coalition maintains that the best reading of the rule that accomplish those objectives is one that concludes that, after June 30, 2006, the weighting factor used to determine the appropriate level of LSS depends on the carrier's current number of access lines, regardless of whether the carrier's lines may have exceeded a threshold in the past. (page 3)

Mid-Com has made essentially the same arguments as the Coalition in its own Request for Review of Universal Service Administrator Decision.<sup>4</sup> Mid-Com is an average schedule company and does not directly incorporate a DEM weighting factor contemplated by § 36.125(f) into its support calculation. Rather, it relies on formulas proposed by NECA and approved by the FCC. Those formulas differ on the basis of line counts.

In April 2006, Mid-Com's line count dropped below the 10,000 threshold. In its support calculations performed later that year, Mid-Com used the support fraction, which is analogous to the DEM weighting factor, applicable to companies with less than 10,000 lines. The result would have been an increase in the amount of local switching support received. The calculation was verified with the Universal Service Administration

---

<sup>2</sup> In fact, the Universal Service Administrative Company ("USAC") in its overview brochure of the High Cost program itself states that "LSS is subject to a 'true-up' process to adjust support based on *actual incumbent carrier data* submitted for the previous calendar year." Website: <http://www.usac.org/res/documents/about/pdf/brochures/hc-incumbent-carrier-brochure.pdf>. Retrieved April 17, 2009.

<sup>3</sup> Coalition for Equity in Switching Support, Petition for Clarification, CC Docket Nos. 80-286, 96-45 (Jan. 8, 2009).

<sup>4</sup> Request for Review by Mid-Communications, Inc. dba HickoryTech of Decision of Universal Service Administrator, CC Docket Nos. 96-45 and 97-21, filed on June 16, 2008 ("Request")

Corporation (USAC). Mid-Com received support on that basis until May 2008, when its support was reduced by \$207,329 as a result of USAC retroactively applying its interpretation of §54.301(a)(2)(ii).

In its Request, Mid-Com has asked for a refund of the retroactive adjustment, that no further true-ups occur and that USAC be directed to cease applying §54.301(a)(2)(ii) in the inequitable one-way manner it has chosen to do. For this reason, Mid-Com supports the Coalition for Equity in Switching Support's request that the Commission clarify that all rural carriers, cost and average schedule, are eligible for local switching support as determined by their current access line count.

Mid-Com stands solidly behind the belief that the one-way application of CFR36.125(j) and CFR54.301(a)(2)(ii) is not contemplated by the rule or by Commission order and encourages the Commission to not miss this opportunity to set the record straight.. Mid-Communications asks the Commission to clarify the rules to reflect that a carrier's support should be determined by their current line counts.

.RESPECTFULLY SUBMITTED,

MID-COMMUNICATIONS, INC. dba HICKORYTECH

/s/ William VanderSluis  
Director of Regulatory Affairs  
221 E. Hickory Street  
Mankato, MN 56001  
(507) 387-1151

## CERTIFICATE OF SERVICE

I hereby certify that a copy of the Comments of Mid-Communications, Inc. was served this 17<sup>th</sup> day of April 2009, by electronic filing and email to the persons listed below.

By:/s/ Carrie Rice  
Carrie Rice

The following parties were served:

Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12 St. SW  
Washington, DC 20554

Antoinette Stevens  
Telecommunications Access Policy Division  
Wireline Competition Bureau  
Federal Communications Commission  
445 12 St. SW  
Washington, DC 20554  
[Antoinette.stevens@fcc.gov](mailto:Antoinette.stevens@fcc.gov)

Best Copy and Printing, Inc.  
Room CY-B402  
445 12 Street SW  
Washington, DC 20554  
[fcc@bcpi.web](mailto:fcc@bcpi.web)